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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies.	Rulemaking 06-04-009 (Filed April 13, 2006)

REQUEST OF THE COMMUNITY ENVIRONMENTAL COUNCIL FOR AN AWARD OF COMPENSATION FOR SUBSTANTIAL CONTRIBUTIONS TO D.07-01-039, D.07-05-063 AND D.07-09-017

TAMLYN HUNT
Energy Program Director / Attorney
26 W. Anapamu St., 2nd Floor
Santa Barbara CA 93101
Telephone: (805) 963-0583, ext 122
Facsimile: (805) 962-9080
E-mail: thunt@cecmail.org

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REQUEST FOR AWARD OF COMPENSATION

Pursuant to §1801 et seq. of the Public Utilities (P.U.) Code and Rule 76.71 et seq. of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), The Community Environmental Council ("CE Council") submits this request for award of compensation in the amount of $45,904.52 for its substantial contributions to the Commission's decisions (D.) 07-01-039, D.07-05-063 and D.07-09-017 issued in Rulemaking (R.) 06-04-009.

The CE Council is timely filing this request for D.07-09-017 and, for D.07-01-039 and D.07-05-063, in accordance with permission granted by email correspondence from ALJ TerKeurst, dated April 4, 2007. Judge TerKeurst granted the CE Council permission to request compensation for work performed in Phase I of this proceeding, subsequent to being granted eligibility for compensation in Phase II and a decision being filed in Phase II. We were granted eligibility for compensation in Phase I and Phase II in a ALJ Ruling from April 6, 2007. Accordingly, we are now filing this compensation request for our substantial contributions to Phase I and Phase II for the three decisions listed above (we have also contributed in other aspects of this proceeding, for which we shall seek compensation at a later date).

Section 1804(c) requires that a compensation request include a detailed description of services and expenditures and a description of the customer's substantial contribution to the hearing or proceeding. In the following sections, the CE Council satisfies these requirements.

I. SUBSTANTIAL CONTRIBUTION

The CE Council is a non-profit environmental organization founded in 1970 in Santa Barbara. We have a long history in recycling, water quality, and environmental education, but shifted our focus to renewable energy and energy efficiency policy, outreach and project development in 2004. Our major campaign seeks to wean our region off fossil fuels by 2033, acting as a model for other regions in California and the U.S. more generally (www.fossilfreeby33.org).

The CE Council's participation in this proceeding was substantial. The CE Council's participation was extensive and included oral testimony at hearings, workshops, and pre-hearing conferences, as well as numerous rounds of comments and briefs.

While the CE Council was not successful on every argument that we presented in this proceeding, we prevailed on key issues and the final decisions clearly reflect the significant impacts of the CE Council's advocacy on the issues we raised. As this proceeding continues, we shall continue to advocate for sensible policies, collaborating with other groups where possible, as we have done to date in this and other proceedings such as the energy efficiency proceeding (R.06-04-010) and the Community Choice Aggregation proceeding (R.03-10-003).

The CE Council's efforts in this proceeding, as reflected in the Commission's decisions, resulted in "substantial contributions" as defined in Section 1802(i) of the P.U. Code:

> 'Substantial contribution' means that, in the judgment of the commission, the customer's presentation has substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer. Where the customer's participation has resulted in a substantial contribution, even if the decision adopts that customer's contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate's fees, reasonable expert fees and other reasonable costs incurred by the customer in preparing or presenting that contention or recommendation.

The Commission has elaborated on this statutory standard as follows:

> A party may make a substantial contribution to a decision in various ways. It may offer a factual or legal contention upon which the Commission relied in making a decision. Or it may advance a specific policy or procedural recommendation that the ALJ or Commission adopted. A substantial contribution includes evidence or argument that supports part of the decision, even if the Commission does not adopt a party's position in total. The Commission has provided compensation even when the position advanced by the intervenor is rejected.[1]

Finally, the Commission has previously determined that an intervenor's contribution to a final decision may be supported by contributions to the ALJ's proposed decision, even where the Commission's final decision does not mirror the proposed decision on that issue.[2]

In summary, the CE Council submits that our overall record of contributions in

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[1] D.99-08-006, 1999 Cal. PUC LEXIS 497, *3-4.

[2] D.99-11-006, pp. 9-10 (citing D.99-04-004 and D.96-08-023); D.01-06-063, pp. 6-7.

this case should be considered substantial, as detailed below.

A. Substantial Contribution to D.07-01-039

The CE Council's intervened in Phase I to advance the CE Council's goal of eliminating the Santa Barbara region's reliance on fossil fuels through robust state policies on renewable energy and energy efficiency (as well as through our work on local policy and project development). With our program, we also hope to expand our influence beyond our region's borders by creating a rigorous model of how to wean a region from fossil fuels.

The CE Council intervened late during Phase I, after the passage of AB 32 and SB 1368. Following the October 5, 2006, Assigned Commissioner's Ruling requesting responses to comments submitted by the Center for Energy and Economic Development (CEED), we submitted detailed legal comments on Commerce Clause issues and preemption issues more generally. After full analysis, the Commission came to the same conclusion as the CE Council did: the proposed Emissions Performance Standard should not be preempted by federal law.

The Decision states a three-part rule for Commerce Clause preemption, concluding: "The EPS does not run awry of any of these tests and is thus valid under the Commerce Clause." (P. 202). The CE Council's legal comments describe the same rules, with sub-rules, and include a detailed legal analysis applying these rules to the EPS at pages 6-15 of our comments.

Analyzing the first part of the three-part rule, discrimination, the Decision

concludes that "the EPS does not discriminate based on geographic origin." (P. 203).

The CE Council's legal comments state the rule:

> The U.S. Supreme Court applies a two-part test to determine whether a state law violates the Dormant Commerce Clause. (*Oregon Waste Systems*, 511 U.S. at 5-6; *Pike v. Bruce Church, Inc.* (1970) 397 U.S. 137.) "The first step in analyzing any law subject to judicial scrutiny under the negative [Dormant] Commerce Clause is to determine whether it 'regulates evenhandedly with only 'incidental' effects on interstate commerce, or discriminates against interstate commerce.'" (*Oregon Waste Systems,* 511 U.S. at 6.)
>
> If a restriction on commerce is discriminatory ("either on its face or in practical effect", *Hughes*, 441 U.S. at 321) – i.e., the regulation treats in-state and out-of-state economic interests differently, to the benefit of the in-state (or in-county) interests - it is "virtually *per se* invalid." (*Id.*) Under such circumstances, the regulation will only be upheld if it is found to achieve a legitimate local purpose that cannot be adequately served by non-discriminatory alternatives. The Court will apply the "strictest scrutiny" in its determination of these facts. (*Hughes,* 441 U.S. 337.) Applying this strict scrutiny, the Court will thoroughly and independently consider the regulation's purpose, and will not consider itself bound by the characterization of purpose given by the legislature, but instead will consider *de novo* the "practical impact of the law." (*Id.* at 336.)

(Legal comments, at 6-7).

We conclude in our comments, mirrored in the Decision: "In sum, the proposed EPS is not discriminatory (facially or otherwise) because it even-handedly regulates generators without regard to their geographic location. The EPS, therefore, should not be found to violate the Dormant Commerce Clause under the first part of the Commerce Clause analysis." (Id. at 10).

Applying the second part of the rule, the *Pike* balancing test, the Decision concludes "that the EPS has substantial local benefits," (at 212), and that "the alleged burdens are incidental and not clearly excessive in relation to the substantial local benefits of the EPS." (At 217).

The CE Council cites the rule:

> [I]f a restriction is found to be non-discriminatory, and it "regulates even-handedly to effectuate a legitimate local public interest, and its effects on interstate commerce are only incidental, it will be upheld unless the burden imposed on such commerce is clearly excessive in relation to the putative local benefits." (*Pike v. Bruce Church, Inc.* (1970) 397 U.S. 137, 142 (hereinafter "*Pike*").) This is referred to as the *Pike* balancing test (hereafter "*Pike* Test"). The balancing required weighs the legitimate local public interest against the burden imposed on interstate commerce. If the burden is clearly excessive to the benefit, the law or regulation will be struck down.

(Legal comments, at 8.)

We conclude in our comments, after a detailed analysis of the burdens and benefits of the proposed EPS: "The benefits of the EPS outweigh any burden on interstate commerce. The benefits of the proposed EPS are many, and are summarized by the Energy Commission and the California Climate Change Center in the recent report: 'Our Changing Climate' (July 2006)." (Id. at 11.)

The Decision concludes, with respect to the third part of the Dormant Commerce Clause analysis, extraterritoriality:

> The EPS is indifferent to electric sales to entities in other states. Simply because the sales to California LSEs under the EPS may affect the costs or profits of an out-of-state generation company (as well as generators in California), this does not make the regulation extraterritorial.[3] We thus reject CEED's and SCE's arguments, and conclude that the EPS is not an "extraterritorial" regulation.

(Decision, at 220.)

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[3] *See National Electrical Manufacturers Association* v. *Sorrell* (2d Cir. 2001) 272 F.3d 104, 110-111 (Vermont statute upheld because lamp manufacturers had choice as to putting hazardous waste warning label on all lamps sold nationwide, modifying their production and distribution systems to distinguish sales in Vermont and the other states, or to withdraw from the Vermont market entirely.); S*ee also Star Scientific* v. *Beales* (4th Cir. 2002) 278 F.3d 339, 356 (Virginia statute imposing a fee only on cigarettes sold within the state upheld, even though it affected prices charged by out-of-state distributors. The Fourth Circuit noted that the statute does not have the practical effect of controlling prices outside of the state.).

The CE Council states the rule:

> Some scholars believe the extraterritoriality analysis should be considered a subset of the *Pike* test[4] and this is the Council's position. Accordingly, we briefly examine CEED's contentions under this test, but refer the Commission to the detailed discussion above for more substantive comments. CEED frames the EPS not as the regulation of the procurement policies of California LSEs, but rather the regulation of the GHG emissions of out-of-state generators selling into the California market. CEED describes this as the unlawful control of commercial conduct beyond the borders of California.

(Legal comments, at 15.) We conclude in our comments:

> CEED cites *Healy* for the rule regarding extraterritorial effects of state regulation. However, CEED does not state a key part of the *Healy* rule: "First, the 'Commerce Clause . . . precludes the application of a state statute to commerce that takes place *wholly outside* of the State's borders, whether or not the commerce has effects within the State'" (*Healy*, at 336-337, quoting *Edgar v. MITE Corp.*, 457 U.S. 624, 642-643 (1982), emphasis added.)
>
> CEED does not claim – nor is it the case – that the proposed EPS will regulate activities wholly outside of California. Rather, the proposed EPS will, in part, require out-of-state electricity purveyors to meet the EPS *if they want to sell power into the state*. CEED's argument fails because it ignores the fact that there will be no extraterritorial effect on out-of-state generators unless they *choose* to do business within California. And as stated above, most baseload generation subject to the proposed EPS is in-state.

(*Id.*) The Decision reaches the same conclusion as the CE Council by focusing on the indifference of the EPS to out-of-state versus in-state distinctions, whereas the CE Council focuses on the fact that the EPS will not have effects wholly outside of the state, thus avoiding the extraterritoriality restriction.

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[4] For example, Michelle Armond, Note, *Regulating Conduct on the Internet: State Internet Regulation and the Dormant Commerce Clause*, 17 Berkeley Tech. L.J. 379, 380 (2003).

The CE Council also raises two threshold issues relating to the Commerce Clause: 1) whether electricity is an article of commerce; and 2) whether Commission decisions (regulations) are subject to Dormant Commerce Clause review. The Decision does not address these issues, but our analysis should have been helpful to the Commission in establishing that electricity is considered an article of commerce and that Commission decisions are subject to Commerce Clause review.

Of the parties submitting legal comments in response to the ACR, the CE Council's and the Division of Ratepayer Advocates (DRA) were the most detailed and well-crafted. The Decision, however, cites only to legal comments submitted by Environmental Defense in its analysis, but draws upon many of the same arguments raised by the CE Council and DRA in reaching its conclusions.

The CE Council also submitted comments on the Proposed Decision (prior to the issuance of D.07-01-039), on issues relating to increased greenhouse gas emissions from Liquefied Natural Gas. We summarize our comments:

> If the emissions performance standard ("EPS"), as currently proposed, remains in force for the next three to five years, as is possible, a number of contracts for LNG could be completed that would lock the state into a potentially GHG-intensive source of natural gas for two decades or more. This is the case because the proposed EPS does not include consideration of net emissions from natural gas plants or net emissions from natural gas used for purposes other than electricity generation.

(Comments on PD, at 2.) We elaborated in our comments on our concerns that recently completed studies of the lifecycle emissions from LNG operations shows that greenhouse gas emissions (GHGs) from LNG can be as high as those from coal power

plants, when both are assessed on a lifecycle emissions basis. Evidently, it would be a perverse result if the state allows LNG imports without considering the actual emissions profile of such imports.

The final Decision, partially addressing our concerns, states:

> The scoping of Phase 1 did not identify the issue that CE Council now raises in its comments on the Proposed Decision, namely, whether the Commission should undertake a lifecycle net emissions analysis to determine compliance with SB 1368, and if so, how that analysis should be conducted. Moreover, SB 1368 specifically directs us to consider lifecycle net emissions in one context only, and not in others, and we have followed that specific direction (e.g., for biomass, biogas or landfill gas-fueled plants where CO2 is removed from the atmosphere at one lifecycle stage and put into the atmosphere at another). If we were to go beyond that specific direction and take a lifecycle approach to other net emission calculations, we would have to do so for all other resources to treat them consistently--and not just for LNG as CE Council suggests. Taking such an approach was not raised during the scoping of Phase 1, during workshops or in pre- or post-workshop written comments. Even if it were, we do not have a sufficient record or time before the statute requires us to adopt an enforceable standard to take this approach for the interim EPS. For these reasons, we do not adopt CE Council's recommendation.

(Decision, at 189-190.) The CE Council did not prevail on this issue, prompting us to file an Application for Rehearing, which was considered and denied in D.07-01-063, discussed below.

B. <u>Substantial contribution to D.07-05-063</u>

The CE Council's application for rehearing, filed on February 22, 2007, stated, in part:

In response to the Council's comments on the Proposed Decision ("PD") … D.07-01-039 (the "Decision") considers the issue of lifecycle emissions from baseload sources of power in California. However, in the Decision, the Commission ignored the plain language of SB 1368, the controlling legal authority in this proceeding.

SB 1368 states: "In determining the rate of emissions of greenhouse gases for baseload generation, the commission **shall include the net emissions resulting** from the production of electricity by the baseload generation." The Commission's lack of consideration of this language in SB 1368 renders Public Utilities Code section 8341(d)(2) surplusage, a clear violation of long-established principles of statutory construction, constituting legal error by the Commission.

D.07-05-063 states (at 14):

CE Council's assertion that a "net lifecycle emissions analysis" is the same as a "net emissions analysis" is unfounded. Not only has CE Council failed to cite to any authority to support this claim, but it has also not provided any convincing arguments that S.B. 1368 intended to treat these two terms interchangeably. Moreover, language in S.B.1368 supports a conclusion that these two terms are different. Section 8341(d) (2) requires the Commission to "include the net emissions *resulting from the production of electricity by the baseload generation*" in determining the rate of GHG emissions. (Pub.Util. Code, §8341 (d) (2) (emphasis added).) In contrast, section 8341(d)(4) requires that "for facilities generating electricity from biomass, biogas or landfill gas energy, the commission shall consider net emissions from the process of growing, processing, and generating the electricity from the fuel source." (Pub. Util. Code, § 8341 (d) (4).) If the Legislature had intended to treat the terms "net lifecycle emissions analysis" and "net emissions analysis" the same, it would not have been necessary to specify a different methodology for calculating net emissions produced by biomass, biogas and landfill gas-fueled plants. Thus, to interpret the term "net emissions analysis" as requiring a "lifecycle analysis" would be contrary to the rules of statutory construction, as it would expand the requirements of section 8341(d) (2). …

For these reasons, we have complied with the requirements of section 8341(d)(2), 8341(d)(2), and properly rejected CE Council's request that a "net lifecycle emissions analysis" be performed for all baseload generation.

Clearly, the CE Council did not prevail on this issue in Phase I, though we

continue to believe the Commission committed legal error in interpreting SB 1368, for the reasons stated in our application for rehearing. Moreover, the Phase II Scoping Memo (February 2, 2007) stated, after the CE Council submitted pre-hearing conference comments suggesting a lifecycle emissions analysis should be required for all baseload power sources and highlighting the fact that the Air Resources Board had stated it would follow a lifecycle emissions analysis in its AB 32 regulatory work:

> Because the methodology for lifecycle analysis of GHG emissions is still being developed, and widely accepted studies have not been completed, I do not include lifecycle analysis of GHG emissions in the scope of Phase 2. Because CARB has indicated a desire to conduct this type of analysis for its AB 32 regulations and those regulations are not required to be adopted until after the end of the timetable for this proceeding, **it is possible that the CPUC may want to consider analysis of lifecycle emissions during a later proceeding**. (At 14, emphasis added.)

Accordingly, the Commission will likely undertake a lifecycle emissions analysis of all baseload power sources at a later date. So while the CE Council did not prevail on all issues in these Decisions, its contributions were substantial, well-founded and presage the shape of things to come as California develops a more comprehensive view of its emissions and how to mitigate those emissions.

C. Substantial Contribution to D.07-09-017

The CE Council submitted comments on the reporting of greenhouse gas emissions – the topic of D.07-09-017. We attended pre-hearing conferences, workshops on April 19 and 20 and submitted comments on the pre-hearing conference and the reporting of GHGs associated with electricity imports.

The CE Council's attorney, Tam Hunt, teaches a class on Renewable Energy Law and Policy at UC Santa Barbara's Bren School of Environmental Science & Management (essentially a green MBA program). At Hunt's suggestion, two of his students during the spring quarter completed a detailed examination of imported electricity accounting protocols, highlighting some possible problems with recent Energy Commission proposals relied upon by the Commission in this proceeding.

The CE Council followed up on these students' work in tracking down required information from other states' energy agencies and submitted detailed comments on issues relating to GHG reporting for unspecified sources of imported electricity, as well as a number of areas of uncertainty that had not been addressed in the staff proposal. The Proposed Decision adopted our recommendation almost exactly in some key respects, and the Decision itself went even further (in the correct direction) in adopting a more conservative figure for unspecified emissions from imported sources than staff had recommended.

The CE Council's comments, filed on July 20, 2007, in response to earlier comments from Washington and Oregon state agencies, state, in part:

- Oregon and Washington believe that Northwest import average emissions factors should be more than double what the Joint Staff Proposal recommends.
- After examining the merits of the various views, the Council recommends splitting the difference between NW estimates and CA estimates and using an interim figure of 722 lbs of CO2/MWh, up from 419 lbs in the staff proposal.
- At the same time, the joint commissions should continue to work with the other states to refine these figures.
- The Council also identifies a number of areas of significant uncertainty in terms of arriving at a full and accurate accounting of

> all California-related greenhouse gas emissions: import emissions; transmission losses (including natural gas); other greenhouse gases such as methane and nitrous oxide; and lifecycle emissions from all power sources, but particularly LNG, which some studies show has much higher emissions than domestic natural gas.

(Reply comments, at 2-3.)

The Proposed Decision concluded that the default emissions factor for Pacific Northwest imports should be 714 lbs of CO2/MWh, eight pounds different than our recommendation. (PD, at 31.)

However, the Commission revised this figure upward in its final decision, D.07-09-017:

> In setting a default emissions factor, we are persuaded to use a higher, conservative value. We agree that setting high regional default emission factors at this time for unspecified sources would further, rather than hinder, the goal of accurate reporting. …
>
> For these reasons, we recommend that ARB use a uniform regional default emission factor for purchases from unspecified sources, and that it be set at a level that reduces incentives to claim unspecified sources. We recommend that ARB use 1,100 lbs CO2e/MWh as an interim regional default emission factor for purchases from unspecified sources. This value is close to the WECC regional average, and is higher than the emission factors for the most modern natural gas combined cycles and for hydropower and nuclear systems.

(D.07-09-017, at 40-41.) The Commission acknowledges the CE Council's suggestion on this issue, at 39: "The Community Environmental Council and DRA propose interim Northwest default emission factors that are closer in value to the default emission factor that the Joint Staff proposes for the Southwest."

The Commission adds, at 41: "This interim default emission factor should be replaced with values derived from a common set of rules that will be developed by the Governors' Western Climate Initiative." The CE Council argued in its reply comments:

> However, **it is clear that more discussion needs to take place between the three states –** as is acknowledged by all the concerned parties. With a very short time frame for completing the Joint Staff Proposal, the Council

> recommends a revised estimate for NW imports and then a more detailed discussion with Oregon, Washington and other western states under the aegis of the Western Region Climate Initiative, a forum that is now ramping up its activities.

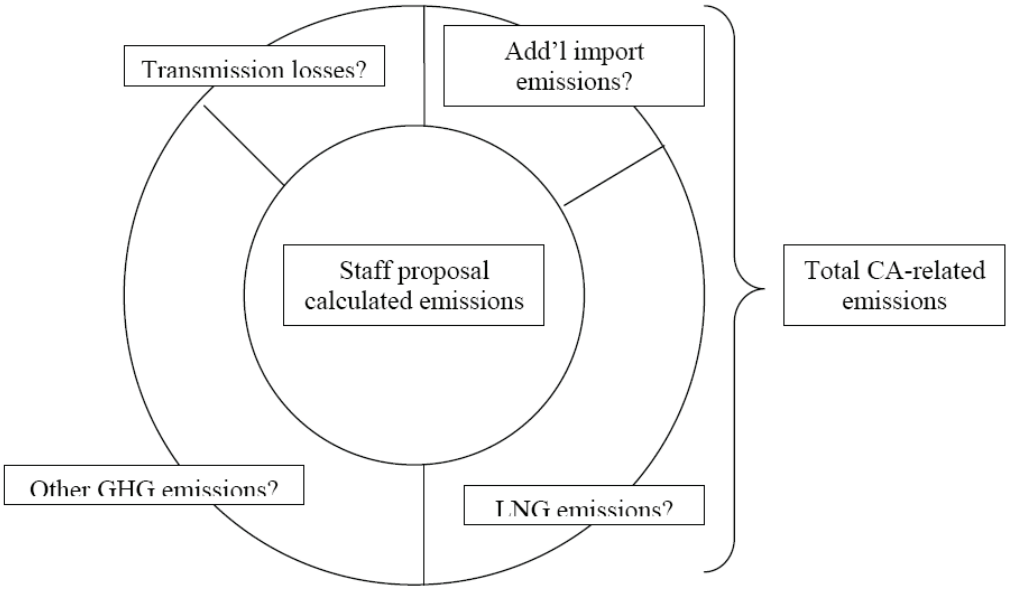
(Reply comments, at 8, (emphasis in original).)

The CE Council also took a "big picture" view of the reporting issues and examined the remaining key areas of uncertainty, hoping to provide guidance for a more comprehensive assessment of California-related GHGs:

> Stepping back for a moment, it's important to consider the range of possible inaccuracies in the Joint Staff Proposal, which is acknowledged by all parties to be a first approximation of actual California-related emissions, not a final and complete tally. Figure one depicts the primary areas of continuing uncertainty identified by the Council. There are surely others, but these four areas seem to encapsulate much of the remaining uncertainty. The graphic is a schematic in terms of depicting the magnitude of each area of uncertainty, though two of the categories ("other GHG emissions" and "LNG emissions") could in fact lead to a much higher estimate of total California-related emissions over time.

(Reply comments, at 9.) We also provided a graphical illustration of these areas of uncertainty (at 9):

Fig. 1. *Total California-related greenhouse gas emissions by 2020.*



Unfortunately, the Commission did not address these issues, but the CE Council will continue to highlight the fact that there are several important areas of uncertainty that need to be addressed in this or a later proceeding before we can be assured of having a comprehensive view of California-related emissions.

In conclusion, the Commission should conclude that the CE Council made a substantial contribution on most of the issues that we addressed in this proceeding. Under these circumstances, the Commission should award the CE Council compensation for all reasonable advocate's fees and other reasonable costs incurred in preparing or presenting our contentions and recommendations, pursuant to Section 1802(i).

II. DUPLICATION OF SHOWING OF OTHER PARTIES AND OVERALL BENEFITS OF PARTICIPATION

A. No Reduction in Compensation for Duplication is Warranted

The CE Council's compensation in this proceeding should not be reduced for duplication of the showings of other parties. In a proceeding involving multiple participants (and there are many in this proceeding), it is virtually impossible for the CE Council to completely avoid some duplication of the work of other parties. Moreover, the Commission has noted that duplication may be practically unavoidable in a proceeding such as this where many stakeholder groups are encouraged to participate.[5]

In this case, the CE Council took all reasonable steps to keep such duplication to a minimum, and to ensure that when it did happen, our work served to complement and assist the showings of the other parties. The CE Council also collaborated closely with other parties, discussing key ideas and proposals with DRA, the Center for Resource Solutions, NRDC and the Green Power Institute, among others.

In summary, any incidental duplication that may have occurred here was more than offset by the CE Council's unique contributions to the proceeding. Under these

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[5] *See, i.e.* D.96-08-040 (67 CPUC 2d 562, 575-576.X) ("[B]ecause of the extraordinary level of participation required of both parties and intervenors throughout these proceedings, we find that a reduction in the amount awarded to intervenors based on duplication of effort is unwarranted. Section 1803(b) requires that the awarding of fees to intervenors "be administered in a manner that encourages the effective and efficient participation of all groups that have a stake in the public utility regulation process. In a broad, multi-issue proceeding such as this, we expect to see some duplication of contribution. This duplication does not diminish the value of that contribution to the Commission. In our view, to deduct from an award of reasonable fees in this case would not encourage the effective and efficient participation of all

circumstances, no reduction to our compensation due to duplication is warranted.

B. Overall Benefits of Participation

In D.98-04-059, the Commission adopted a requirement that a customer must demonstrate that its participation was "productive," as that term is used in § 1801.3.[6] The Commission directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers.

The Commission should treat this compensation request as it has treated similar past requests with regard to the difficulty of establishing specific monetary benefits associated with the CE Council's participation.[7]

The CE Council cannot identify precise monetary benefits to ratepayers stemming from our contributions to this proceeding because the CE Council's contributions were directed primarily at policy matters, rather than the establishment of specific rates, funding levels or targets, or disputes over particular dollar amounts. Indeed, much of the policy discussion concerning greenhouse gas emissions and renewable energy centers on the difficulty of quantifying the environmental and other benefits because these benefits are not generally internalized by electricity markets at

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stakeholders in the spirit of § 1801.3(b).")

6 D.98-04-059, pp., 31-33.

7 *See, i.e.* D.99-12-005, pp. 6-7 (Compensation Decision in 1995 Storm Phase of PG&E GRC, A.97-12-020) and D.00-04-006, pp. 9-10 (Compensation Decision in Edison PBR Midterm Review, A.99-03-020) (recognizing the overall benefit of The Utility Reform Network's participation where that participation assisted the Commission in developing a record on which to assess the reasonableness of the utility's operations, and particularly its preparedness and performance in the future).

this time. In this proceeding and others, such as the RPS proceeding and the long-term procurement proceeding, however, attempts have been made to quantify some of the externalities associated with fossil fuel electricity, so once this process is finalized, it may be possible to quantify, on a state-wide basis, the benefits to ratepayers (or costs) associated with decisions in this proceeding and the contributions by parties such as the CE Council.

III. ITEMIZATION OF SERVICES AND EXPENDITURES

In this filing, the CE Council is requesting compensation for the time that we reasonably devoted to Phase I, the Phase II pre-hearing conference, our application for re-hearing, and for the reporting protocol discussion, as well as the full amount of expenses we incurred for our participation. No costs or expenses sought in this request were recovered from any grant or other outside source. The following is a summary of the CE Council's requested compensation.

Attorney Fees[8]

Regular hours in 2006	76.25	hours X	$210[9]	(2006) =	$16,012.50
Travel hours in 2006	4.5	hours X	$105	(2006) =	$472.50
Regular hours in 2007	53.5	hours X	$280	(2007) =	$14,980.00
Travel hours in 2007	12.75	hours X	$140	(2007) =	$1,785.00
Prep. Hours in 2007	7.75	Hours X	$140	(2007) =	$1,085.00

[8] Please see Attachment A for detailed description of hours.

[9] The Commission approved this rate in D.07-07-012, at 10.

Attorney Subtotal				**$34,335.00**

Staff Fees

Megan Birney	4 hours X	$75	(2007) =	$300.00
Total				**$300.00**

Staff Subtotal	**$34,635.00**

Other Reasonable Costs

Westlaw charges	=	$2,677.50
Travel expenses	=	$8,434.52
Cory Briggs (review of PUC Filings)	=	$157.50
Other Costs Subtotal	**=**	**$11,269.52**

TOTAL = $ 45,904.52

The Hours Claimed for the CE Council's Attorney Are Reasonable

Tam Hunt was the CE Council's attorney (and Energy Program Director) in this proceeding. A daily listing of the specific tasks performed by Mr. Hunt is set forth in Attachment A, appended to the end of this pdf prior to the service list.

The CE Council submits that all of the hours included in this request are reasonable and should be compensated in full.

A. The Hourly Rates Requested for The CE Council's Attorney, Staff And Expert Witness Are Reasonable and Should Be Adopted

a) Tam Hunt

The Commission previously approved an hourly rate of $210 for work performed by Mr. Hunt in 2006, in D.07-07-012 (at page 10). Mr. Hunt graduated from the UCLA School of Law in 2001 and was, in 2007, equivalent to a sixth year attorney at a law firm, in terms of legal experience, and he has now worked at the Commission for approximately 2.5 years on various issues including Community Choice Aggregation, energy efficiency and in this proceeding.

D.07-01-009 provides that 2007 rates for lawyers with 5 to 7 years experience, as is the case for Mr. Hunt, should be compensated between $270 and $290 per hour. Mr. Hunt has been practicing for six years, so compensation at $280 per hour for 2007 is appropriate, given the guidance in D.07-01-009.

B. The CE Council's Expenses Are Reasonable and Should Be Compensated in Full

The miscellaneous expenses of $11,269.52 listed in the summary presented above are reasonable in magnitude and were necessary for the CE Council's efforts in this case. They consist of Westlaw ($2,677.50) and travel expenses ($8,432.54) stemming from Westlaw charges during 2007 (the CE Council was previously compensated for Westlaw charges incurred during 2006) and air and hotel expenses for workshops and

hearings in San Francisco.

The CE Council submits that our costs are all reasonable, and should be compensated in full.

IV. ALLOCATION AMONG UTILITIES

Since this proceeding involved issues common to the three major California electric utilities, the CE Council suggests that any award be apportioned among Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company based on CPUC-jurisdictional sales or revenues for the 2005 calendar year.

V. CONCLUSION

In the foregoing sections, the CE Council has described its substantial contribution to the three decisions listed. We have also provided a detailed itemization of our costs of participation, and demonstrated the reasonableness of our requested hourly rates. The CE Council has met all of the requirements of Sections 1801 *et seq*. of the Public Utilities Code, and therefore requests an award of compensation in the amount of $**--**, plus interest if a decision is not issued within 75 days of today, in accordance with Section 1804(e) of the PU Code.

October 19, 2007

Respectfully submitted,

By: The Community Environmental Council

Tamlyn Hunt, Attorney and Energy Program Director

VERIFICATION

I, Tam Hunt, am an attorney of record for THE COMMUNITY ENVIRONMENTAL COUNCIL in this proceeding and am authorized to make this verification on the organization's behalf. The statements in the foregoing document are true of my own knowledge, except for those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I am making this verification on the CE Council's behalf because, as the lead attorney in the proceeding, I have unique personal knowledge of certain facts stated in the foregoing document.

I declare under penalty of perjury that the foregoing is true and correct.

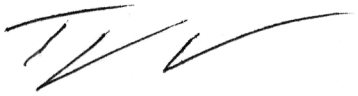
Executed on October 19, 2007, at Santa Barbara, California.

Tam Hunt
Attorney and Energy Program Director

CERTIFICATE OF SERVICE

I hereby certify that I have served by electronic service a copy of the foregoing **REQUEST OF THE COMMUNITY ENVIRONMENTAL COUNCIL FOR AN AWARD OF COMPENSATION FOR SUBSTANTIAL CONTRIBUTIONS TO D.07-01-039, D.07-05-063 AND D.07-09-017** on all known interested parties of record in R.06-04-009 included on the service list appended to the original document filed with this Commission. Service by first class U.S. mail has also been provided to those who have not provided an email address.

Dated at Santa Barbara, California, this 19th day of October, 2007.



Tamlyn Hunt

Attachment A

Climate Proc. Phase I and reporting		
Date	**Time**	**Description**
10/4/2006	1.5	Review OIR and other filings
10/5/2006	1	Review filings
10/6/2006	1.5	Draft and send Petition to Intervene
10/6/2006	4.5	Draft and send Notice of Intent to Claim Intervenor Compensation; review staff report on EPS workshop
10/11/2006	1.5	Complete NOI; correspond with ALJ; and review legal briefs
10/12/2006	2.5	Review legal briefs re jurisdictional issues
10/13/2006	2.25	Re-file petition to intervene; draft reply brief to CEED issues
10/18/2006	2.5	Draft commerce clause comments; review EPS comments by parties
10/19/2006	2	Draft commerce clause comments; review EPS comments by parties
10/20/2006	1	Draft commerce clause comments; review EPS comments by parties
10/24/2006	7.5	Draft commerce clause comments
10/26/2006	7	Draft commerce clause comments; review EPS reply comments by parties
10/27/2006	6.5	Draft commerce clause comments
10/30/2006	4	draft commerce clause comments
10/31/2006	4	Complete commerce clause comments
11/1/2006	4.5	Complete and file commerce clause comment and NOI
11/2/2006	1.5	Review party comments on commerce clause issues; review ACR on PHC
11/13/2006	1.5	Research and draft PHC comments
11/14/2006	5.5	Research and draft PHC comments
11/15/2006	4.5	Draft PHC comments
11/15/2006	1.5	Review PHC Comments from parties
11/16/2006	1	Review PHC Comments from parties
11/28/2006	4.5	Travel to and from PHC
11/28/2006	5	Prepare for and attend PHC
11/29/2006	1	Draft additional PHC comments
12/22/2006	0.5	Review EPS proposed decision; draft comments
12/27/2006	0.5	Review EPS proposed decision; draft comments
Regular hours	76.25	$16,013
Travel hours	4.5	$473
1/3/2007	4.5	Draft and file comments on PD; review comments by parties
1/11/2007	1.5	Review reply comments by parties
2/2/2007	0.75	Review Phase II scoping memo
2/21/2007	2	Draft application for re-hearing; discuss application with outside counsel
2/22/2007	3.5	Draft application for rehearing; file application
2/26/2007	0.75	Review applications for rehearing from CEED

		and EPUC
2/27/2007	0.5	Discuss PHC with NRDC
2/28/2007	1	Modify application for rehearing, file modification
3/6/2007	0.5	Discuss procedural issues with application for rehearing with PUC Docket Office and Legal Division
3/14/2007	1.5	Review responses to applications for rehearing
4/11/2007	1.5	Prepare for workshop on reporting
4/12/2007	3	Travel to symposium at PUC
4/12/2007	6.5	Attend PUC symposium
4/13/2007	5.5	Attend PUC symposium
4/13/2007	4.25	Return to Santa Barbara
4/27/2007	0.75	Draft comments on reporting requirements proposal
6/11/2007	0.75	Review 2nd order amending OIR
6/12/2007	0.5	Talk to Scott Murtishaw re straw proposal
6/14/2007	0.25	Review staff proposal for reporting
6/19/2007	0.5	Review agenda for 6/22 workshop and staff proposal for reporting
6/22/2007	5.5	Travel to Sacramento from SF, return to Santa Barbara
6/22/2007	6.5	Prepare for and attend workshop in Sacramento on reporting requirements for GHGs
7/16/2007	2.5	Review comments, OIR and discuss reporting issues with reps from OR and WA
7/17/2007	2	Review comments, OIR and discuss reporting issues with reps from OR and WA
7/18/2007	3.25	Draft reply comments tot OR and WA letters re reporting
7/19/2007	6.5	Draft and file reply comments tot OR and WA letters re reporting
Regular hours	66.25	$18,550
Travel hours	12.75	$1,785
10/9/2007	1.75	Draft reimbursement request
10/10/2007	3.5	Draft reimbursement request
10/11/2007	2.5	Draft reimbursement request
Prep. Hours	7.75	$1,085

Service List

cadams@covantaenergy.com
steven.schleimer@barclayscapital.com
steven.huhman@morganstanley.com
rick_noger@praxair.com
keith.mccrea@sablaw.com
ajkatz@mwe.com
ckrupka@mwe.com
lisa.decker@constellation.com
cswoollums@midamerican.com
kevin.boudreaux@calpine.com
trdill@westernhubs.com
ej_wright@oxy.com
pseby@mckennalong.com
todil@mckennalong.com
steve.koerner@elpaso.com
jenine.schenk@apses.com
jbw@slwplc.com
kelly.barr@srpnet.com
rrtaylor@srpnet.com
smichel@westernresources.org
roger.montgomery@swgas.com
ron.deaton@ladwp.com
snewsom@semprautilities.com
dhuard@manatt.com
curtis.kebler@gs.com
dehling@klng.com
gregory.koiser@constellation.com
npedersen@hanmor.com
mmazur@3phasesRenewables.com
tiffany.rau@bp.com
klatt@energyattorney.com
rhelgeson@scppa.org
douglass@energyattorney.com
pssed@adelphia.net
akbar.jazayeri@sce.com
annette.gilliam@sce.com
cathy.karlstad@sce.com
Laura.Genao@sce.com
rkmoore@gswater.com
dwood8@cox.net
amsmith@sempra.com
atrial@sempra.com
apak@sempraglobal.com
dhecht@sempratrading.com
daking@sempra.com
svongdeuane@semprasolutions.com
troberts@sempra.com
liddell@energyattorney.com
marcie.milner@shell.com
rwinthrop@pilotpowergroup.com
tdarton@pilotpowergroup.com
lschavrien@semprautilities.com
GloriaB@anzaelectric.org
llund@commerceenergy.com
thunt@cecmail.org
jeanne.sole@sfgov.org
john.hughes@sce.com
llorenz@semprautilities.com
marcel@turn.org
nsuetake@turn.org
dil@cpuc.ca.gov
fjs@cpuc.ca.gov
achang@nrdc.org
rsa@a-klaw.com
ek@a-klaw.com
kgrenfell@nrdc.org
mpa@a-klaw.com
sls@a-klaw.com
bill.chen@constellation.com
bkc7@pge.com
epoole@adplaw.com
agrimaldi@mckennalong.com
bcragg@goodinmacbride.com
jsqueri@gmssr.com
jarmstrong@goodinmacbride.com
kbowen@winston.com
lcottle@winston.com
sbeatty@cwclaw.com
vprabhakaran@goodinmacbride.com
jkarp@winston.com
jeffgray@dwt.com
cjw5@pge.com
ssmyers@att.net
lars@resource-solutions.org
alho@pge.com
aweller@sel.com

jchamberlin@strategicenergy.com
beth@beth411.com
kerry.hattevik@mirant.com
kowalewskia@calpine.com
wbooth@booth-law.com
hoerner@redefiningprogress.org
janill.richards@doj.ca.gov
cchen@ucsusa.org
gmorris@emf.net
tomb@crossborderenergy.com
bmcc@mccarthylaw.com
sberlin@mccarthylaw.com
anginc@goldrush.com
joyw@mid.org

jjensen@kirkwood.com
mary.lynch@constellation.com
lrdevanna-rf@cleanenergysystems.com
abb@eslawfirm.com
mclaughlin@braunlegal.com
glw@eslawfirm.com
jluckhardt@downeybrand.com
jdh@eslawfirm.com
vwelch@environmentaldefense.org
www@eslawfirm.com

westgas@aol.com
scohn@smud.org
atrowbridge@daycartermurphy.com
dansvec@hdo.net
notice@psrec.coop
deb@a-klaw.com
cynthia.schultz@pacificorp.com
kyle.l.davis@pacificorp.com
ryan.flynn@pacificorp.com
carter@ieta.org
jason.dubchak@niskags.com
bjones@mjbradley.com

kcolburn@symbioticstrategies.com
rapcowart@aol.com
Kathryn.Wig@nrgenergy.com
sasteriadis@apx.com
george.hopley@barcap.com
ez@pointcarbon.com
burtraw@rff.org
vb@pointcarbon.com
kyle_boudreaux@fpl.com
andrew.bradford@constellation.com
gbarch@knowledgeinenergy.com
ralph.dennis@constellation.com
smindel@knowledgeinenergy.com
brabe@umich.edu
bpotts@foley.com
james.keating@bp.com
jimross@r-c-s-inc.com
tcarlson@reliant.com
ghinners@reliant.com
zaiontj@bp.com
julie.martin@bp.com
fiji.george@elpaso.com
echiang@elementmarkets.com
nenbar@energy-insights.com
nlenssen@energy-insights.com
bbaker@summitblue.com
william.tomlinson@elpaso.com
kjsimonsen@ems-ca.com
Sandra.ely@state.nm.us
bmcquown@reliant.com
dbrooks@nevp.com
anita.hart@swgas.com
randy.sable@swgas.com
bill.schrand@swgas.com
jj.prucnal@swgas.com
sandra.carolina@swgas.com
ckmitchell1@sbcglobal.net
chilen@sppc.com
emello@sppc.com
tdillard@sierrapacific.com
dsoyars@sppc.com
fluchetti@ndep.nv.gov
leilani.johnson@ladwp.com
Lorraine.Paskett@ladwp.com
randy.howard@ladwp.com
robert.pettinato@ladwp.com
HYao@SempraUtilities.com
rprince@semprautilities.com
rkeen@manatt.com
nwhang@manatt.com
pjazayeri@stroock.com

derek@climateregistry.org
david@nemtzow.com
harveyederpspc.org@hotmail.com
vitaly.lee@aes.com
sendo@ci.pasadena.ca.us
slins@ci.glendale.ca.us
THAMILTON5@CHARTER.NET
bjeider@ci.burbank.ca.us
rmorillo@ci.burbank.ca.us
roger.pelote@williams.com
aimee.barnes@ecosecurities.com
case.admin@sce.com
tim.hemig@nrgenergy.com
bjl@bry.com
aldyn.hoekstra@paceglobal.com
ygross@sempraglobal.com
jlaun@apogee.net
kmkiener@fox.net
scottanders@sandiego.edu
jkloberdanz@semprautilities.com
andrew.mcallister@energycenter.org
jack.burke@energycenter.org
jennifer.porter@energycenter.org
sephra.ninow@energycenter.org
jleslie@luce.com
ofoote@hkcf-law.com
ekgrubaugh@iid.com

pepper@cleanpowermarkets.com
gsmith@adamsbroadwell.com
mdjoseph@adamsbroadwell.com
diane_fellman@fpl.com
hayley@turn.org
mflorio@turn.org
Dan.adler@calcef.org
mhyams@sfwater.org
tburke@sfwater.org
norman.furuta@navy.mil
amber@ethree.com
annabelle.malins@fco.gov.uk
dwang@nrdc.org
filings@a-klaw.com
nes@a-klaw.com
obystrom@cera.com
sdhilton@stoel.com
scarter@nrdc.org
abonds@thelen.com
cbaskette@enernoc.com
colin.petheram@att.com
jwmctarnaghan@duanemorris.com
kfox@wsgr.com
kkhoja@thelenreid.com
pvallen@thelen.com
spauker@wsgr.com
rreinhard@mofo.com
cem@newsdata.com
hgolub@nixonpeabody.com
jscancarelli@flk.com
jwiedman@goodinmacbride.com
mmattes@nossaman.com
jen@cnt.org
lisa_weinzimer@platts.com
steven@moss.net
sellis@fypower.org
arno@recurrentenergy.com
ELL5@pge.com
gxl2@pge.com
jxa2@pge.com
JDF1@PGE.COM
RHHJ@pge.com
sscb@pge.com
svs6@pge.com
S1L7@pge.com
vjw3@pge.com
karla.dailey@cityofpaloalto.org
farrokh.albuyeh@oati.net
dtibbs@aes4u.com
jhahn@covantaenergy.com
andy.vanhorn@vhcenergy.com
Joe.paul@dynegy.com
info@calseia.org
gblue@enxco.com
sbeserra@sbcglobal.net
monica.schwebs@bingham.com
phanschen@mofo.com
josephhenri@hotmail.com
pthompson@summitblue.com
dietrichlaw2@earthlink.net
Betty.Seto@kema.com
JerryL@abag.ca.gov

jody_london_consulting@earthlink.net
steve@schiller.com
mrw@mrwassoc.com
rschmidt@bartlewells.com
adamb@greenlining.org
clyde.murley@comcast.net
brenda.lemay@horizonwind.com
carla.peterman@gmail.com
elvine@lbl.gov
rhwiser@lbl.gov
C_Marnay@1b1.gov
philm@scdenergy.com
rita@ritanortonconsulting.com
cpechman@powereconomics.com
emahlon@ecoact.org
richards@mid.org
chrism@mid.org
rogerv@mid.org
fwmonier@tid.org
brbarkovich@earthlink.net
johnrredding@earthlink.net
clark.bernier@rlw.com
rmccann@umich.edu
cmkehrein@ems-ca.com
e-recipient@caiso.com
grosenblum@caiso.com

rsmutny-jones@caiso.com
saeed.farrokhpay@ferc.gov
david@branchcomb.com
kenneth.swain@navigantconsulting.com
kdusel@navigantconsulting.com
gpickering@navigantconsulting.com
lpark@navigantconsulting.com
davidreynolds@ncpa.com
scott.tomashefsky@ncpa.com
ewolfe@resero.com
Audra.Hartmann@Dynegy.com
Bob.lucas@calobby.com
curt.barry@iwpnews.com
dseperas@calpine.com
dave@ppallc.com
dkk@eslawfirm.com
wynne@braunlegal.com
kgough@calpine.com
kellie.smith@sen.ca.gov
kdw@woodruff-expert-services.com
mwaugh@arb.ca.gov
pbarthol@energy.state.ca.us
pstoner@lgc.org
rachel@ceert.org
wtasat@arb.ca.gov
steven@iepa.com
etiedemann@kmtg.com
ltenhope@energy.state.ca.us
bushinskyj@pewclimate.org
lmh@eslawfirm.com
obartho@smud.org
bbeebe@smud.org
bpurewal@water.ca.gov
dmacmll@water.ca.gov
kmills@cfbf.com
karen@klindh.com
ehadley@reupower.com
Denise_Hill@transalta.com
sas@a-klaw.com
egw@a-klaw.com
akelly@climatetrust.org
alan.comnes@nrgenergy.com
kyle.silon@ecosecurities.com
californiadockets@pacificorp.com
Philip.H.Carver@state.or.us
samuel.r.sadler@state.or.us
lisa.c.schwartz@state.or.us
cbreidenich@yahoo.com
dws@r-c-s-inc.com
jesus.arredondo@nrgenergy.com
charlie.blair@delta-ee.com
karen.mcdonald@powerex.com
clarence.binninger@doj.ca.gov
david.zonana@doj.ca.gov
agc@cpuc.ca.gov
aeg@cpuc.ca.gov
blm@cpuc.ca.gov
cf1@cpuc.ca.gov
cft@cpuc.ca.gov
tam@cpuc.ca.gov
dsh@cpuc.ca.gov
edm@cpuc.ca.gov
cpe@cpuc.ca.gov

hym@cpuc.ca.gov
hs1@cpuc.ca.gov
jm3@cpuc.ca.gov
jnm@cpuc.ca.gov
jbf@cpuc.ca.gov
jk1@cpuc.ca.gov
jst@cpuc.ca.gov
jtp@cpuc.ca.gov
jol@cpuc.ca.gov
jci@cpuc.ca.gov
jf2@cpuc.ca.gov
krd@cpuc.ca.gov
lrm@cpuc.ca.gov
ltt@cpuc.ca.gov
mjd@cpuc.ca.gov
ner@cpuc.ca.gov
pw1@cpuc.ca.gov
psp@cpuc.ca.gov
pzs@cpuc.ca.gov
rmm@cpuc.ca.gov
ram@cpuc.ca.gov
smk@cpuc.ca.gov
sgm@cpuc.ca.gov
svn@cpuc.ca.gov
scr@cpuc.ca.gov
tcx@cpuc.ca.gov
ken.alex@doj.ca.gov
ken.alex@doj.ca.gov
bdicapo@caiso.com
jsanders@caiso.com
jgill@caiso.com

ppettingill@caiso.com
mscheibl@arb.ca.gov
pburmich@arb.ca.gov
bblevins@energy.state.ca.us
dmetz@energy.state.ca.us
deborah.slon@doj.ca.gov
dks@cpuc.ca.gov
kgriffin@energy.state.ca.us
ldecarlo@energy.state.ca.us
mpryor@energy.state.ca.us
mgarcia@arb.ca.gov
pduvair@energy.state.ca.us
wsm@cpuc.ca.gov
hurlock@water.ca.gov
hcronin@water.ca.gov